

AMENDED IN SENATE APRIL 6, 2011

SENATE BILL

No. 381

Introduced by Senator Pavley

(Coauthors: Senators Hancock and Wolk)

(Coauthors: Assembly Members Donnelly, Jeffries, Bonnie Lowenthal,
and Olsen)

February 15, 2011

An act to amend Section 48204 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

SB 381, as amended, Pavley. School attendance: residency requirements.

Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district if the pupil satisfies one of the specified requirements. Until July 1, 2012, existing law authorizes a school district in which at least one parent or *the* legal guardian of a pupil is employed to allow that pupil to attend a school in that district through grade 12 if ~~a~~ *the* parent or legal guardian *of the pupil* so chooses and if ~~a~~ *the* parent or legal guardian of the pupil continues to be employed by an employer situated within the attendance boundaries of the district.

This bill would extend the operation of the provision authorizing the school district in which a parent or the legal guardian of the pupil is physically employed to allow the pupil to attend a school in that district, through June 30, 2017, and would repeal the provision on January 1, 2018. *The bill additionally would modify this provision by requiring that the parent or legal guardian's employment occur during a majority of the hours that the pupil is scheduled to be in school.*

The bill would also make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48204 of the Education Code, as amended
2 by Section 1 of Chapter 33 of the Statutes of 2007, is amended to
3 read:

4 48204. (a) Notwithstanding Section 48200, a pupil complies
5 with the residency requirements for school attendance in a school
6 district, if he or she is any of the following:

7 (1) (A) A pupil placed within the boundaries of that school
8 district in a regularly established licensed children's institution,
9 or a licensed foster home, or a family home pursuant to a
10 commitment or placement under Chapter 2 (commencing with
11 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
12 Code.

13 (B) An agency placing a pupil in a home or institution described
14 in subparagraph (A) shall provide evidence to the school that the
15 placement or commitment is pursuant to law.

16 (2) A pupil for whom interdistrict attendance has been approved
17 pursuant to Chapter 5 (commencing with Section 46600) of Part
18 26.

19 (3) A pupil whose residence is located within the boundaries of
20 that school district and whose parent or legal guardian is relieved
21 of responsibility, control, and authority through emancipation.

22 (4) A pupil who lives in the home of a caregiving adult that is
23 located within the boundaries of that school district. Execution of
24 an affidavit under penalty of perjury pursuant to Part 1.5
25 (commencing with Section 6550) of Division 11 of the Family
26 Code by the caregiving adult is a sufficient basis for a
27 determination that the pupil lives in the home of the caregiver,
28 unless the school district determines from actual facts that the pupil
29 is not living in the home of the caregiver.

30 (5) A pupil residing in a state hospital located within the
31 boundaries of that school district.

32 (b) A school district may deem a pupil to have complied with
33 the residency requirements for school attendance in the district if
34 at least one parent or the legal guardian of the pupil is physically

1 employed within the boundaries of that district *during a majority*
2 *of the hours that the pupil is scheduled to be in school in*
3 *accordance with Article 1 (commencing with Section 46100) of*
4 *Chapter 2 of Part 26.*

5 (1) This subdivision does not require the school district within
6 which at least one parent or the legal guardian of a pupil is
7 employed to admit the pupil to its schools. A school district shall
8 not, however, refuse to admit a pupil under this subdivision on the
9 basis, except as expressly provided in this subdivision, of race,
10 ethnicity, sex, parental income, scholastic achievement, or any
11 other arbitrary consideration.

12 (2) The school district in which the residency of either the
13 parents or the legal guardian of the pupil is established, or the
14 school district to which the pupil is to be transferred under this
15 subdivision, may prohibit the transfer of the pupil under this
16 subdivision if the governing board of the district determines that
17 the transfer would negatively impact the court-ordered or voluntary
18 desegregation plan of the district.

19 (3) The school district to which the pupil is to be transferred
20 under this subdivision may prohibit the transfer of the pupil if the
21 district determines that the additional cost of educating the pupil
22 would exceed the amount of additional state aid received as a result
23 of the transfer.

24 (4) The governing board of a school district that prohibits the
25 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
26 encouraged to identify, and communicate in writing to the parents
27 or the legal guardian of the pupil, the specific reasons for that
28 determination and is encouraged to ensure that the determination,
29 and the specific reasons therefor, are accurately recorded in the
30 minutes of the board meeting in which the determination was made.

31 (5) The average daily attendance for pupils admitted pursuant
32 to this subdivision is calculated pursuant to Section 46607.

33 (6) Unless approved by the sending school district, this
34 subdivision does not authorize a net transfer of pupils out of a
35 school district, calculated as the difference between the number
36 of pupils exiting the district and the number of pupils entering the
37 district, in a fiscal year in excess of the following amounts:

38 (A) For a school district with an average daily attendance for
39 that fiscal year of less than 501, 5 percent of the average daily
40 attendance of the district.

1 (B) For a school district with an average daily attendance for
2 that fiscal year of 501 or more, but less than 2,501, 3 percent of
3 the average daily attendance of the district or 25 pupils, whichever
4 amount is greater.

5 (C) For a school district with an average daily attendance of
6 2,501 or more, 1 percent of the average daily attendance of the
7 district or 75 pupils, whichever amount is greater.

8 (7) Once a pupil is deemed to have complied with the residency
9 requirements for school attendance pursuant to this subdivision
10 and is enrolled in a school in a school district the boundaries of
11 which include the location where at least one parent or the legal
12 guardian of a pupil is physically employed, the pupil does not have
13 to reapply in the next school year to attend a school within that
14 district and the district governing board shall allow the pupil to
15 attend school through grade 12 in that district if the parent or legal
16 guardian so chooses and if at least one parent or the legal guardian
17 of the pupil continues to be physically employed by an employer
18 situated within the attendance boundaries of the district, subject
19 to paragraphs (1) to (6), inclusive.

20 (c) This section shall become inoperative on July 1, 2017, and
21 as of January 1, 2018, is repealed, unless a later enacted statute,
22 that becomes operative on or before January 1, 2018, deletes or
23 extends the dates on which it becomes inoperative and is repealed.

24 SEC. 2. Section 48204 of the Education Code, as amended by
25 Section 2 of Chapter 33 of the Statutes of 2007, is amended to
26 read:

27 48204. (a) Notwithstanding Section 48200, a pupil complies
28 with the residency requirements for school attendance in a school
29 district, if he or she is:

30 ~~(a)-(1)~~

31 (1) (A) A pupil placed within the boundaries of that school
32 district in a regularly established licensed children's institution,
33 or a licensed foster home, or a family home pursuant to a
34 commitment or placement under Chapter 2 (commencing with
35 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
36 Code.

37 ~~(2)~~

38 (B) An agency placing a pupil in the home or institution
39 described in ~~paragraph (1)~~ subparagraph (A) shall provide evidence
40 to the school that the placement or commitment is pursuant to law.

~~(b)~~

(2) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

~~(e)~~

(3) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

~~(d)~~

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

~~(e)~~

(5) A pupil residing in a state hospital located within the boundaries of that school district.

~~(f)~~

(b) This section shall become operative on July 1, 2017.